

**UNITED STATES DEPARTMENT OF COMMERCE****Patent and Trademark Office**Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/437,535 11/10/99 BREED

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022846  
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PM82/1128

EXAMINER

TO, T

ART UNIT

PAPER NUMBER

3619

DATE MAILED:

11/28/00

Please find below and/or attached an Office communication concerning this application or proceeding.

**Commissioner of Patents and Trademarks**

<b>Advisory Action</b>	Application No.	Applicant(s)	
	09/437,535	BREED ET AL.	
	Examiner	Art Unit	
	Toan C To	3619	
<i>--The MAILING DATE of this communication appears on the cover sheet with the correspondence address--</i>			
<p>THE REPLY FILED 14 November 2000 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.</p>			
<u>PERIOD FOR REPLY [check only a) or b)]</u>			
<p>a) <input checked="" type="checkbox"/> The period for reply expires <u>3</u> months from the mailing date of the final rejection.</p> <p>b) <input type="checkbox"/> In view of the early submission of the proposed reply (within two months as set forth in MPEP § 707.07 (f)), the period for reply expires on the mailing date of this Advisory Action, OR continues to run from the mailing date of the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.</p>			
<p>Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).</p>			
<p>1. <input type="checkbox"/> A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37CFR 1.191(d)), to avoid dismissal of the appeal.</p> <p>2. <input checked="" type="checkbox"/> The proposed amendment(s) will be entered upon the timely submission of a Notice of Appeal and Appeal Brief with requisite fees.</p> <p>3. <input type="checkbox"/> The proposed amendment(s) will not be entered because:</p> <ul style="list-style-type: none"> <li>(a) <input type="checkbox"/> they raise new issues that would require further consideration and/or search. (see NOTE below);</li> <li>(b) <input type="checkbox"/> they raise the issue of new matter. (see Note below);</li> <li>(c) <input type="checkbox"/> they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or</li> <li>(d) <input type="checkbox"/> they present additional claims without canceling a corresponding number of finally rejected claims.</li> </ul> <p>NOTE: _____.</p>			
<p>4. <input type="checkbox"/> Applicant's reply has overcome the following rejection(s): _____.</p> <p>5. <input type="checkbox"/> Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).</p> <p>6. <input type="checkbox"/> The a)<input type="checkbox"/> affidavit, b)<input type="checkbox"/> exhibit, or c)<input type="checkbox"/> request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.</p> <p>7. <input type="checkbox"/> The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.</p> <p>8. <input checked="" type="checkbox"/> For purposes of Appeal, the status of the claim(s) is as follows (see attached written explanation, if any):</p> <p>Claim(s) allowed: _____.</p> <p>Claim(s) objected to: <u>4-6, 9, 13-15, 23, 26, 27, 31, 34 and 35.</u></p> <p>Claim(s) rejected: <u>1-3, 7, 8, 10-12, 16-22, 24, 25, 28-30, 32, 33 and 36-40.</u></p> <p>Claim(s) withdrawn from consideration: _____.</p>			
<p>9. <input type="checkbox"/> The proposed drawing correction filed on _____ a)<input type="checkbox"/> has b)<input type="checkbox"/> has not been approved by the Examiner.</p> <p>10. <input type="checkbox"/> Note the attached Information Disclosure Statement(s)( PTO-1449) Paper No(s). _____.</p> <p>11. <input type="checkbox"/> Other: <u>See Continuation Sheet</u></p>			
 <b>LANNA MAI</b> <b>SUPERVISORY PATENT EXAMINER</b> <b>TECHNOLOGY CENTER 3600</b> <i>Lanna Mai</i>			

Continuation of 11. Other: Applicant's arguments regarding the prior arts are not persuasive. Examiner has carefully reviewed the prior arts and believed that they still read on all the claims.